

UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF CALIFORNIA

JOSE G. VILLALTA,

Plaintiff,

v.

B. CATES, *et al.*,

Defendants.

Case No. 1:21-cv-01457-HBK

ORDER TO SHOW CAUSE

FOURTEEN-DAY RESPONSE PERIOD

Plaintiff Jose G. Villalta, a state prisoner, initiated this action by filing a *pro se* civil rights complaint under 42 U.S.C. § 1983 on September 29, 2021. (Doc. No. 1). The complaint was not accompanied by the filing fee and Plaintiff did not move to proceed *in forma pauperis* (“IFP”). (See docket). The Court accordingly ordered Plaintiff on October 1, 2021 to submit a completed IFP application or pay the \$402.00 filing fee within 30 days, with failure to timely do so cause for dismissal. (Doc. No. 3). As of the date of this Order, Plaintiff has neither paid the filing fee nor filed an application to proceed *in forma pauperis*. (See docket)

Federal Rule of Civil Procedure 41(b) permits courts to involuntarily dismiss an action when a litigant fails to prosecute an action or fails to comply with a court order. *See Fed. R. Civ. P. 41(b); see Applied Underwriters v. Lichtenegger*, 913 F.3d 884, 889 (9th Cir. 2019) (citations omitted); *Hells Canyon Pres. Council v. U.S. Forest Serv.*, 403 F.3d 683, 689 (9th Cir. 2005) (“[T]he consensus among our sister circuits, with which we agree, is that courts may dismiss

1 under Rule 41(b) *sua sponte*, at least under certain circumstances.”). Local Rule 110 similarly
2 permits courts to impose sanctions on a party who fails to comply with a court order.

3 Accordingly, it is hereby **ORDERED**:

4 Within **fourteen (14) days** from receipt of this Order, Plaintiff shall comply with the
5 Court’s previous October 1, 2021 Order, or show cause why the Court should not recommend that
6 this case be dismissed **without prejudice** for Plaintiff’s failure to prosecute this action and/or his
7 failure to timely comply with the Court’s October 1, 2021 Order.

8

9 Dated: November 10, 2021


10 HELENA M. BARCH-KUCHTA
11 UNITED STATES MAGISTRATE JUDGE

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28